FEDERAL REGISTER

VOLUME 4 NUMBER 71

Washington, Thursday, April 13, 1939

The President

CLOSED AREA UNDER THE MIGRATORY BIRD TREATY ACT GEORGIA AND SOUTH CAROLINA

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the Secretary of Agriculture has submitted to me for approval the following regulation adopted by him on March 1, 1939, under authority of the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755):

Regulation Designating as Closed Area Certain Waters Adjacent to the Savannah River Wildlife Refuge, Georgia and South Carolina

By virtue of and pursuant to the authority vested in me by section 3 of the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755, 16 U. S. C. 704), I, H. A. Wallace, Secretary of Agriculture, do hereby designate as closed area in or on which pursuing, hunting, taking, capturing, or killing, or attempting to take, capture, or kill migratory birds is not permitted, the channels of the Savannah River known as Steamboat River and Houstown Cut, between Front and Middle Rivers; Middle River from the head of Argyle Island to its confluence with Front River; and Back River from the mouth of Union Creek to the foot of Argyle Island, adjacent to the areas in Chatham County, Georgia, and Jasper County, South Carolina, established as the Savannah River Wildlife Refuge by Executive Order No. 5748, of November 12, 1931, and enlarged by Executive Order No. 7391,[1] of June 17, 1936.

WHEREAS upon consideration it appears that the foregoing regulation is in the public interest and will tend to effectuate the purposes of the aforesaid Migratory Bird Treaty Act of July 3, 1918:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid Migratory Bird Treaty Act of July 3, 1918, do hereby approve and proclaim the foregoing regulation of the Secretary of Agriculture.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this tenth day of April in the year [SEAL] of our Lord nineteen hundred and thirty-nine, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL
Secretary of State.

[No. 2329]

[F. R. Doc. 39-1245; Filed, April 12, 1939; 12:26 p. m.]

[1] 1 F. R. 610.

EXECUTIVE ORDER

AMENDING THE FOREIGN SERVICE REGULATIONS OF THE UNITED STATES

By virtue of and pursuant to the authority vested in me by section 1752 of the Revised Statutes of the United States (22 U. S. C. § 132), it is ordered that the Foreign Service Regulations of the United States be, and they are hereby, amended by prescribing the following as Chapter XIII thereof:

CHAPTER XIII

Marriages, Births, Deaths, and Estates

Marriages

XIII-1. *Prohibition against celebration of marriage by Foreign Service officers.* Foreign Service officers are forbidden to celebrate marriages.

XIII-2. *Competency of Foreign Service officers to act as official witnesses at marriage ceremonies*—(a) *Diplomatic representative not empowered to act as official witness.* A diplomatic representative is not empowered to act as an official witness at a marriage ceremony.

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THE PRESIDENT

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FEDERAL REGISTER

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(b) *Consular officer authorized to act as official witness.* A consular officer may, when requested, act as an official witness at a marriage ceremony (see 22 U. S. C. § 72), provided that one of the contracting parties is a citizen of the United States and provided the consular officer has assured himself that the requirements of the law at the place of celebration have been complied with as far as practicable. While it is not intended to modify in any way the principle of international law that the form of celebrating marriage is determined ordinarily by the law of the place of celebration, the following exceptions are recognized:

(1) When it is impossible to use such form

(2) When it is repugnant to the religious convictions of the parties

(3) When it is not imposed on foreigners by the sovereign prescribing it

(4) When the ceremony is performed in a non-Christian or semicivilized country (see 7 Op. A. G. 18).

XIII–3. *Form No. 87, Certificate of Witness to Marriage.* Whenever a consular officer witnesses a ceremony of marriage, he shall complete in every detail Form No. 87, Certificate of Witness to Marriage, affix thereto the seal of the consulate, certify that the marriage took place in his presence, and sign such certificate. (See 22 U. S. C. § 72.)

XIII–4. *Authentication of marriage and divorce decree documents.* Whenever a consular officer is requested to authenticate the signature of local authorities on a document of marriage when he was not a witness to the marriage, he shall include in the body of his certificate of authentication the qualifying statement, "For the contents of the annexed document, the Consulate (General) assumes no responsibility."

The same statement shall be included in certificates of authentication accompanying decrees of divorce.

XIII–5. *Consular officers not to certify as to marriage laws.* Although a consular officer may have knowledge respecting the laws of marriage, he shall not issue any official certificate as to such laws.

Births

XIII–6. *Registration of births of Americans abroad.* Consular officers are required, upon application, to record the birth of children to American parents abroad. They should impress upon American citizens resident in their respective districts the desirability and importance of a prompt registration of such births. No fee shall be charged for the registration of a birth, or for the issuance of a copy of the record thereof.

Deaths

XIII–7. *Deaths of Americans abroad to be published and reported.* When a consular officer learns of the death of an American citizen in his district, he shall, if he deems it necessary, have this information published in one of the news agencies in his consular district. He shall also inform the Department of State in order that appropriate notification may be made in the State to which the deceased belonged. (See 22 U. S. C. § 76; also sec. XIII–10.)

XIII–8. *Shipment of remains of American citizens dying abroad.* Whenever the remains of American citizens who die abroad are shipped to the United States, consular officers shall make certain that the remains are properly encased and accompanied by all necessary papers pertaining to the death, burial, exhumation, and shipment.

Estates

XIII–9. *Consular functions in connection with estates.*—(a) *Personal property.* A consular officer within whose jurisdiction a citizen of the United States dies is the provisional conservator of the personal property of the decedent within the country where death occurs.

(b) *Real property.* In the absence of special provisions by treaty, the devolution and transfer of real property are governed by the law of the place where the property is situated. When real property is left by the decedent within the country where death occurs, the consular officer shall, if feasible, informally observe the proceedings and report to the diplomatic mission any apparent irregularity or unnecessary delay in settling the estate.

XIII–10. *Duties of consular officer as provisional conservator of personal property.* Whenever a citizen of the United States (other than a seaman dies within a particular consular district, leaving there no legal representative, partner in trade, or trustee by him appointed to take charge of his effects, the consular officer shall, if treaty provisions, local laws, or established usage permit:

(a) Take possession of the personal property of the decedent within the country (see sec. XIII–9)

(b) Notify the next of kin

(c) Hold the estate at all times subject to the demand of the legal representative of the deceased (see sec. XIII–11)

(d) Inventory the property (see sec. XIII–12)

(e) Sell the perishable portion of the property (see sec. XIII–13)

(f) Collect local claims and pay local debts (see sec. XIII–14)

(g) If the legal representative of the deceased does not appear within a year, or a reasonable time thereafter, and demand the estate, transmit the residue to the Department of State for deposit in the Treasury of the United States to be held in trust for the legal claimant (see sec. XIII–15). (See 22 U. S. C. § 75.)

XIII–11. *Estate held subject to demand of legal representative of decedent.* The consular officer must be in readiness to deliver the estate of the decedent at any time to the legal representative of the deceased upon the presentation of satisfactory proof of the latter's right to receive the estate, i. e., certified copies of letters testamentary or letters of administration, and upon the payment of the prescribed fees. (See item 12, Tariff of United States Foreign Service Fees, sec. V–15.)

If the consular officer is in doubt concerning the validity of a claimant's right to receive the estate or if rival claimants present themselves, he may in his discretion refer the question or questions to the courts for settlement.

A consular officer shall retain possession of the personal estate of the decedent for a period of at least one year subsequent to the date of death, unless in the interim the legal representative appears and demands the estate. (See sec. XIII–15.)

XIII–12. *Inventory of property.* After taking possession of the estate, the consular officer shall carefully inventory the property with the assistance of two merchants or, if this is impracticable, of two other competent persons, who shall act jointly with the consular officer in appraising and giving the estimated value of each article listed on the inventory.

XIII–13. *Sale of perishable property.* As soon as the inventory is completed,

the perishable portion of the estate shall be sold at public auction after reasonable public notice has been given in at least one of the newspapers of the place (if there be any), both in English and in the language of the country. If practicable, the same type of notice required by the laws of the country for the judicial sale of property under execution should be given.

XIII–14. *Collection and payment of debts*—(a) *Collection of debts.* The consular officer shall collect only those debts due from persons or concerns in the country in which the decedent died. If necessary, he may request the assistance of other consular officers in making such collections. Debts so collected are regarded as part of the decedent's estate.

(b) *Payment of debts.* The decedent's debts shall be paid out of the cash resources of the estate in the consular officer's hands, namely: the money among the effects; the proceeds of the sale of perishable property; and the money paid by the decedent's debtors in the country where the decedent died. If these funds are insufficient, the consular officer may sell at auction, after proper advertisement (see sec. XIII–13), as much of the remaining personal property as may be required to meet the demands, taking care to sell first the articles which are most marketable and at the same time least likely to be desired by the heirs of the deceased. If the assets are still insufficient, the consular officer should ask the administrator or interested parties to remit funds sufficient for payment of the rest of the debts.

A claim for damages for a wrongful act of the decedent is not a debt which the consular officer may pay unless it has been reduced to judgment. (*Sturgis* v. *Slacum*, 35 Mass. 36.)

XIII–15. *Remission of residue of estate.* One year after the death of the decedent, or as soon thereafter as possible (see sec. XIII–11), the consular officer shall convert into money the residue of the estate left after paying the local debts (by sale at public auction after reasonable notice) with the possible exception of articles of sentimental value, and shall send such money and property to the Department of State for transmission to the Treasury of the United States to be held in trust for the legal representative of the deceased. Unsold articles in the officer's possession shall be transmitted with the unused assets.

XIII–16. *Fees for taking possession of and settling estates.* A consular officer shall collect the fee prescribed by item 12 of the Tariff of United States Foreign Service Fees (see sec. V–15) for services rendered in connection with estates of deceased Americans (other than seamen) coming into his possession, and shall account for such fees in accordance with the procedure outlined in section V–19 and notes thereto. This fee constitutes the first claim against such estates and should, as a rule, be charged on the *gross* amount thereof.

XIII–17. *Account of receipts and expenditures.* A consular officer shall keep an account between himself and the estate of the decedent. He shall debit all the moneys and effects which come into his possession and credit all payments made therefrom. When he is ready to convert the account into a final statement, he shall enter thereon the balance delivered to the legal representative, whose name and address shall be given, or remitted to the Department of State for transmission to the Treasury of the United States.

XIII–18. *Disposition of estates on transfer of office*—(a) *Estates held for less than 12-month period.* When an office is transferred, the outgoing officer shall turn over the effects and cash of deceased American citizens which have been in his hands for less than the 12-month period (see sec. XIII–11) to the incoming officer, and take a receipt therefor in duplicate, one copy for himself and one copy for the office files.

(b) *Estates held for more than 12-month period.* Estates which have been held for more than the 12-month period (see sec. XIII–15) shall be remitted to the Department of State, and accounted for by the outgoing officer before turning over charge of the office, unless the outgoing officer is communicating or endeavoring to communicate with a possible claimant, in which event he shall turn over the effects to the incoming officer and take a receipt therefor. His successor shall continue for a reasonable length of time the correspondence initiated by his predecessor, before forwarding the effects for transmission to the Treasury of the United States.

XIII–19. *Duties of consular officers toward American claimants to foreign estates and inheritances.* Where treaty provisions, local laws, or established usage permit, a consular officer should protect the interests of American citizens claiming foreign estates and inheritances.

Sections of Regulations Canceled

The following provisions of the Foreign Service Regulations of the United States are hereby canceled:

PART I

Sections XVI–8, XVI–9, XVI–10, XVI–11, and XVI–12.

PART II

Sections XXIII–385, XXIII–386, XXIII–387, XXIII–388, XXIII–389, XXIII–390, XXIII–391, XXIII–392, XXIII–393, XXIII–394, XXIII–395, XXIII–396, XXIII–397, XXIII–398, XXIII–399, XXIII–400, XXIII–401, XXIII–402, XXIII–403, XXIII–404, XXIII–405, XXIII–406, XXIII–407, XXIII–408, XXIII–409, XXIII–410, XXIV–417, XXIV–418, XXIV–419, XXIV–420, XXIV–421, XXIV–422, XXIV–422½, and XXIV–451½.

Revocation of Executive Order

Executive Order No. 170, dated March 24, 1902, is hereby revoked.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 11, 1939.

[No. 8084]

[F. R. Doc. 39–1241; Filed, April 12, 1939; 11:06 a. m.]

EXECUTIVE ORDER

WITHDRAWAL OF PUBLIC LAND FOR FOREST RANGER STATION, COLORADO

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, c. 421, 36 Stat. 847, as amended by the act of August 24, 1912, c. 569, 37 Stat. 497, it is ordered that the following-described land in Colorado be, and it is hereby, temporarily withdrawn from settlement, location, sale, or entry and reserved, subject to valid existing rights, for use by the Forest Service of the Department of Agriculture as a ranger station in connection with the administration of the Gunnison National Forest:

Sixth Principal Meridian

T. 14 S., R. 86 W., sec. 1, SE¼SW¼; 40 acres.

The withdrawal made by this order shall remain in force until revoked by the President or by act of Congress.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 11, 1939.

[No. 8085]

[F. R. Doc. 39–1243; Filed, April 12, 1939; 11:07 a. m.]

Rules, Regulations, Orders

TITLE 10—ARMY

WAR DEPARTMENT

CHAPTER III—CLAIMS AND ACCOUNTS—PART 35—PAYMENT OF BILLS AND ACCOUNTS

PAYMENTS UNDER CONTRACT, FORMAL AND INFORMAL [1]

SEC. 35.05 *To whom payment may be made*—(a) *Other than lowest bidder.* Payment may be made under award to other than lowest bidder where the evidence clearly shows that such award has been made to the lowest responsible bidder complying with conditions of the invitation to bidders. Doubtful cases will be submitted to the Chief of Finance for consideration. See section 81.13.

(b) *Other than original contractor*—(1) *General rule.* Section 3737, Revised Statutes (41 U. S. C. 15), prohibits the transfer of a contract with the United

[1] These regulations supersede sections 35.05 to 35.09, Part 35, Chapter III, Title 10, Code of Federal Regulations.

States, and section 3477, Revised Statutes (31 U. S. C. 203), prohibits the assignment of a claim against the United States prior to the issuing of a warrant for the payment thereof. See section 81.20 and paragraph (a), section 36.08.

(2) *Exceptions*—(i) *Transferee of entire business.* Where the entire business of a contractor is sold, the transfer is not such an assignment as is prohibited by sections 3477 and 3737, Revised Statutes, and payment to the transferee is authorized upon compliance with contract terms and the furnishing of a waiver from the original contractor. See 9 Comp. Gen. 72.

(ii) *Successor.* The merger of a corporation or a change in the corporate name does not operate to annul existing contracts between such corporation and the Government and is not of itself a change in the contractor's responsibility. See 4 Comp. Gen. 184. (R. S. 161; 5 U. S. C. 22) [Par. 3, AR 35–6040, March 15, 1939]

SEC. 35.06 *When payment may be made—advances of public money prohibited.* Section 3648, Revised Statutes (31 U. S. C. 529), prohibits payments in advance of the delivery of supplies or rendition of service, except as otherwise provided by law. (See R. S. 3648; 31 U. S. C. 529.) Purchases of coupon books for gasoline and oil are within the prohibition and payment may not be made until the supplies are actually furnished. See 8 Comp. Gen. 454. (R. S. 161; 5 U. S. C. 22) [Par. 4, AR 35–6040, March 15, 1939]

SEC. 35.07 *What payment is authorized—general*—(a) *Payments under contracts for indefinite amounts not authorized.* Contracts containing provisions obligating the United States to pay unlimited or indefinite amounts are not authorized, but requirements may be stated as accurately as possible, with provisions for increases or decreases not exceeding given percentages. See 5 Comp. Gen. 450; 8 id. 354.

(b) *Payments under contracts for nonpersonal services*—(1) *Method of procurement.* Nonpersonal services will be engaged in accordance with the requirements of the laws governing the procurement of supplies. See sections 81.01–81.09 and sections 81.32, 81.33.

(2) *Distinction between personal and nonpersonal services.* See 9 Comp. Gen. 169 and paragraph 1, AR 5–100.[2]

(3) *Payment for fractional parts of months.* The act of June 30, 1906 (34 Stat. 763; 5 U. S. C. 84), providing that, for pay purposes, each month shall be regarded as having 30 days, relates only to compensation of officers and employees of the United States for personal services, and has no application to contracts for nonpersonal service, as for the hire of a wagon and team, payment for which for a fractional part of a month should be on the basis of the actual number of days in the month. See 22 Comp. Dec. 711.

(4) *Forms of agreements for services of a continuous nature.* Services of a continuous nature must be supported by a formal contract when the yearly amount exceeds $500, or an informal agreement when the yearly amount is $500 or less, same to be numbered and filed in the General Accounting Office. (See sections 81.14–81.20 and 6 Comp. Gen. 642.) When service is temporary, notation to that effect should appear on the voucher.

(5) *Rates effective "until further notice".* In the absence of competition there is no objection to entering into agreements for public utilities services at stipulated rates "until further notice," without necessity for new agreements or annual renewals except to cover changes in rates or service, unless the interests of the Government require otherwise in a particular case, the original agreements and all changes to be filed in the General Accounting Office, and the vouchers to cite the agreement involved and bear a statement by a responsible officer of the public utility concerned as to the rates charged. Payment may not be made for service in an amount stipulated in a substitute agreement which is in excess of the rate stated in the original contract, effective "until further notice," prior to the date of actual receipt of the substitute agreement by the proper administrative representative of the Government. See 15 Comp. Gen. 920; MS. Comp. Gen. A–65231, December 15, 1936.

(c) *Payment of taxes and duties on purchases by Government*—(1) *Customs duties on foreign purchases.* In the absence of specific legislation authorizing purchases made by the Government to come into the United States free of customs duty, the particular appropriation for a purchase is properly chargeable with the amount of the customs duty assessed thereon by the United States, and the fact that the importation came through in a certain fiscal year does not require it to be considered as a service rendered in that fiscal year so as to be charged against an appropriation in the fiscal year in which the importation was made instead of the appropriation involved in the particular purchase. (See 26 Comp. Dec. 610 and par. 8, AR 5–340.[3]) Checks issued in payment of customs duties on imported merchandise will be drawn payable to and forwarded to the collector or deputy collector of customs at the port where entry was made.

(2) *Federal, State, county, and municipal taxes.* See sections 81.01–81.09.

(d) *Modification of contracts.* See section 81.18. (R. S. 161; 5 U. S. C. 22.) [Par. 5, AR 35–6040, March 15, 1939]

SEC. 35.08 *Adjustments*—(a) *Mistakes in bids.* Where a contractor claims payment in addition to the contract price on the ground of a mistake in bid, the contract price only will be paid and any protest on the part of the contractor will be forwarded through the Chief of Finance to the General Accounting Office. See 8 Comp. Gen. 397.

(b) *Transportation costs*—(1) *Savings in freight charges.* Shipment from a point nearer destination than the f. o. b. point named in a contract does not entitle the contractor to the saving in freight charges. (See 3 Comp. Gen. 56.) Where a contract provides for delivery f. o. b. destination, and shipment is made on Government bill of lading, which entitles the Government to certain land-grant deductions from the regular commercial rates, the contractor is not entitled to the benefits obtained by the Government on account of said land-grant deductions. See MS. Comp. Gen. A–30249, April 8, 1930.

(2) *Adjustments by General Accounting Office.* Where contractors are permitted to make shipments of supplies from points other than those named in the contract, which contract, in pursuance of advertisement for bids to that effect, permits such procedure and provides an apportionment feature for excess transportation costs, the Comptroller General requires that final payment for the supplies be made by the General Accounting Office in order that adjustments of freight charges may be taken into consideration. (See 8 Comp. Gen. 500.) For procedure and exceptions, see paragraph 33, AR 5–200.[4]

(c) *Coal contracts*—(1) *Changes in wage scale.* Standard Government forms of coal contracts provide for adjustment of prices on account of increases or decreases in cost of production due to changes in wage scale. See 8 Comp. Gen. 671; 16 id. 805; Finance Circular No. B–19.

(2) *Ash content.* Standard Form No. 43 (Standard Government Purchase Conditions (Coal)), which forms a part of contracts for coal, provides for adjustment of prices where coal is sampled and found to contain excess ash content.

(d) *Inferior goods.* Acceptance of inferior goods does not entitle the contractor to other than payment on the basis of the reasonable value of the goods. (See 5 Comp. Gen. 993.) Disbursing officers should not make payment in such cases without an advance decision of the Comptroller General.

(e) *Set-off.* Where a contractor is indebted to the Government under one contract, the Government may offset, without separate action, an amount owing to the contractor under another contract. (*Barry* v. *United States* (1913), 229 U. S. 47. See 7 Comp. Gen. 186.) The right of set-off does not apply to unliquidated demands, but the Government has the equitable right to withhold payment of moneys due under one contract to a contractor who is in default under

[2] Administrative regulations of the War Department relating to definitions of supplies.

[3] Administrative regulations of the War Department relating to duty.

[4] Administrative regulations of the War Department relating to transportation charges involved in purchases.

another contract until his indebtedness thereunder can be liquidated. 7 Comp. Dec. 213.

(f) *Delay in performance*—(1) *when no damages provided for in contract.* (i) Where no specific provision is made in a contract for either liquidated or actual damages, the contractor is, upon failure to complete the contract within the specified time, chargeable with all expenses caused the Government by the delay as actual damages. See 8 Comp. Gen. 455.

(ii) Where there has been delay in performance under a contract which does not contain a provision for damages, payment in full will not be made unless a certificate is furnished by the contracting officer, or the officer delegated by him to supervise performance, that no actual damage has been caused the Government by the delay. See MS. Comp. Gen. A–28698, September 30, 1929.

(iii) In the case of delays in the completion of informal contracts involving less than $500, the purchasing officer may furnish for file with the voucher a statement of the damage resulting from the delay, or certify that no damage resulted from the delay, and payment may be made in accordance with the certificate. See 2 Comp. Gen. 385.

(2) *When damages provided for in contract*—(i) *Deductions of damages.* Whenever, under a standard Government form of contract containing a provision for liquidated damages, the contractor fails for any reason to execute completely the contract within the period stipulated in the original contract or valid agreements supplemental thereto, including change orders, the disbursing officer when making payment thereunder should withhold the liquidated damages covering the entire period of delay regardless of cause and claim credit for the net amount only, leaving in the appropriation the amount so withheld, subject to final adjustment by the General Accounting Office. (See 9 Comp. Gen. 398.) Amounts withheld on account of liquidated damages will not again become available for obligation, or for payment by disbursing officers. Any protest made by the contractor against the deduction of liquidated damages should be forwarded, together with a statement of all payments made, citations to all vouchers, and a detailed statement from the contracting officer, through the Chief of Finance to the General Accounting Office. See 6 Comp. Gen. 650; 7 id. 534 and section 81.19.

(ii) *Deductions of cash discounts.* Where both cash discount and liquidated damages are involved, the discount should first be deducted, then liquidated damages withheld from the balance due. See 6 Comp. Gen. 692.

(iii) *Progress payments.* Partial payments, as distinguished from final payment, may be made on periodical progress reports without deduction of liquidated damages for time intervening between the effective date of an order for suspension of work and the effective date of an order to resume work. See 8 Comp. Gen. 80 and section 81.19.

(iv) *Change orders.* Liquidated damages need not be deducted for delays resulting from changes in specifications covered by change orders issued in accordance with provisions of standard forms of contracts. The change order should specify the changes, increase or decrease in price, and the number of days added thereby. See MS. Comp. Gen. A–26558, April 1, 1929; paragraph (d), section 81.18 and paragraph (e), section 81.19.

(v) *Extensions of time for delay.* See paragraph (f), section 81.19.

(vi) *Termination.* Where a contractor abandons his contract, necessitating the termination thereof by the Government and the subsequent reletting of the uncompleted portion of the work to another contractor, no liquidated damages accrue to the United States after the date of termination in the absence of a provision in the contract that liquidated damages will not cease to accrue at the time of termination. See 7 Comp. Gen. 409; 15 id. 903.

(g) *Default*—(1) *Procedure.* See sections 81.32 and 81.33.

(2) *Disposition of amounts collected.* Amounts collected on account of actual damages or excess costs charged to defaulting contractors should be credited to Miscellaneous Receipts (see MS. Comp. Gen. A–26073, March 20, 1929, August 8, 1929; 10 Comp. Gen. 510), but amounts collected on account of the rejection of unsatisfactory supplies may be credited to the appropriations from which the original payments were made. See 8 Comp. Gen. 103.

(3) *Information on voucher.* When deduction is made from a payment to a defaulting contractor on account of the excess cost of an open-market purchase against his account, the voucher should bear reference to the vouchers in connection with which the excess costs were incurred.

(4) *Cash discounts.* A defaulting contractor, in the absence of any provision in the contract that cash discount offered was to be taken into account in determining such excess cost, is not chargeable with the discount in determining the excess cost if no attempt was made to secure a like discount from the dealer from whom the open-market purchase was made. See 4 Comp. Gen. 807.

(5) *Rights of sureties.* Settlement with the contractor and surety is made by the General Accounting Office in accordance with the following: A surety which completes work under a contract on which it is surety is subrogated to the rights of the contractor against the Government for the unpaid balance due from the United States on that contract and also to the rights of the Government against the contractor for the excess cost of completing the work or furnishing the materials and supplies, and, therefore, the surety is entitled to be paid by the Government the cost to the surety of completing the work but no profit. The contractor is entitled to be paid for work performed by it, if any funds are available for such payment after reimbursing the surety. The total payments by the Government must not exceed the contract price. (See 16 Comp. Dec. 351, 490; 26 id. 467; 5 Comp. Gen. 995; 8 id. 36, 58, 266, 318, 435.) It is the practice to require releases from the contractor and the surety. (See 5 Comp. Gen. 995, 999; 8 id. 266, 272.) Payment into court of the balance should not be made. (See 14 Comp. Gen. 567.) The amount remaining due may be paid to the assignee of a receiver where the court orders the receiver to accept the assignee's offer to complete the work in consideration of receiving all the payments and retained percentages due. See 3 Comp. Gen. 623. (R. S. 161; 5 U. S. C. 22) [Par. 6, AR 35–6040, March 15, 1939]

SEC. 35.09 *Payment where there is no valid contract*—(a) *Lost contract.* Where a contract properly executed has been lost, its contents may be proved by the production of the original proposal, a certified copy of its acceptance, and an unsigned copy of the contract, so as to authorize payment at the contract rates for supplies which have been actually delivered. See 4 Comp. Dec. 82.

(b) *Completed transactions.* (1) When payment has been made and accepted under an agreement shown to be reasonable, but informally executed, the transaction is complete and both parties are bound thereby. See 24 Comp. Dec. 226.

(2) Where certain materials were supplied to the Government under a procurement order and subsequently a formal contract was drawn fixing the place of deliveries and the price to be paid, in which agreement certain alterations and interlineations from the printed text were made upon dates which were subsequent to the date appointed for completion of deliveries under the procurement order, such agreement is not binding because not made in compliance with law, and the dealer having been paid as provided in the order is not entitled to further payment. See 25 Comp. Dec. 406.

(c) *Quantum meruit.* (1) Accounts covering supplies furnished or services rendered before the making of a contract, without a valid contract, or where otherwise settlement is on a quantum meruit basis, should be transmitted through the Chief of Finance to the General Accounting Office. See MS. Comp Dec. A. D. 4997, August 6, 1920.

(2) The agreed price, if any, is prima facie but not conclusive evidence as to the correct price. See 8 Comp. Dec. 526; 20 id. 437. (R. S. 161; 5 U. S. C. 22) [Par. 7, AR 35–6040, March 15, 1939]

E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 39–1239; Filed, April 12, 1939; 10:03 a. m.]

CHAPTER VI—ORGANIZED RESERVES—PART 62—RESERVE OFFICERS' TRAINING CORPS

SUPPLY AND EQUIPMENT [1]

SEC. 62.54 *Issue of textbooks and reference books*—(a) *Reference library.*

* * * * *

(3) If funds are available, upon requisition submitted to The Adjutant General through the corps area commander, who will state the procurement authority applicable, one set of all training publications prescribed in TR 1–10 for noncommissioned officers of the arm or service concerned will be furnished for every ten students of that arm or service regularly enrolled at the institution. Other War Department documents and additional copies of those listed in subparagraph (2) above will also be furnished for the reference library and for the use of the professor of military science and tactics. Except as provided in paragraph (c) below, textbooks will not be furnished to individual students from ROTC funds.

* * * * *

(c) *Issue of Army Regulations to students entering final year of ROTC instruction.* (1) One copy each of AR 140–5 and of the pertinent regulations included in AR 140–22 to AR 140–39, inclusive, is authorized for issue to each student who enters on his final year of ROTC instruction at class MC, CC, and MI institutions.

(2) At the beginning of each school year, the professor of military science and tactics will submit a requisition to The Adjutant General through the corps area commander, who will state the procurement authority applicable, for a sufficient number of Army Regulations to accomplish the distribution authorized in subparagraph (1) above.

(3) Army Regulations furnished as authorized in subparagraph (1) may be retained by the student upon completion of his ROTC instruction at the institution. (Sec. 47, 39 Stat. 192; sec. 34, 41 Stat. 777; 10 U. S. C. 389) [Par. 36, AR 145–20, July 1, 1938, as amended by Sec. IV, Cir. No. 19, W. D., April 1, 1939]

E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 39–1240; Filed, April 12, 1939; 10:03 a. m.]

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 2774]

IN THE MATTER OF TWENTIETH CENTURY BUSINESS BUILDERS, INC., ET AL.

SEC. 3.6 (s) *Advertising falsely or misleadingly—Promotional sales plans:* SEC. 3.6 (s 10) *Advertising falsely or misleadingly—Puzzle prize contests:* SEC. 3.7 *Aiding, assisting and abetting misrepresentation and deception:* SEC. 3.95 (m) *Using contest schemes unfairly—Puzzle prize contests.* Representing, in connection with offer, etc., in commerce, of "count the dot" or "count the block" or other sales promotional plans, or causing or assisting the purchasers of said plan to represent, that any sales promotional plan in which credit vouchers, checks, gifts, or any form of so-called prizes, are given to the entrants or contestants therein without regard to the relative correctness of the answers or solutions submitted by said entrants or contestants, is a contest, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Twentieth Century Business Builders, Inc., et al., Docket 2774, April 3, 1939]

SEC. 3.6 (s) *Advertising falsely or misleadingly—Promotional sales plans:* SEC. 3.6 (s 10) *Advertising falsely or misleadingly—Puzzle prize contests:* SEC. 3.7 *Aiding, assisting and abetting misrepresentation and deception:* SEC. 3.69 (c) (2) *Misrepresenting oneself and goods—Prices—Coupons, credit vouchers, etc., of specified value:* SEC. 3.95 (m) *Using contest schemes unfairly—Puzzle prize contests.* Representing, in connection with offer, etc., in commerce, of "count the dot" or "count the block" or other sales promotional plans, or causing or assisting the purchasers of said plan to represent, that credit vouchers or checks, or any other form of prizes or gifts awarded in connection with such sales promotional plan, enable the recipients thereof to receive a "credit," "reduction" or other financial advantage in the purchase of merchandise, when, in fact, said merchandise is offered for sale in the course of such sales promotional plan or so-called "contest" at a price in excess of the normal and customary price of said merchandise, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Twentieth Century Business Builders, Inc., et al., Docket 2774, April 3, 1939]

SEC. 3.6 (s) *Advertising falsely or misleadingly—Promotional sales plans:* SEC. 3.6 (s 10) *Advertising falsely or misleadingly—Puzzle prize contests:* SEC. 3.7 *Aiding, assisting and abetting misrepresentation and deception:* SEC. 3.69 (c) (5) *Misrepresenting oneself and goods—Prices—Usual as reduced:* SEC. 3.72 (n) *Offering deceptive inducements to purchase—Special offers:* SEC. 3.95 (m) *Using contest schemes unfairly—Puzzle prize contests.* Representing, in connection with offer, etc., in commerce, of "count the dot" or "count the block" or other sales promotional plans, or causing or assisting the purchasers of said plan to represent, as "special" or "sale" prices of merchandise offered for sale in connection with said sales promotional plan, prices which are the same as, or in excess of, the regular and customary prices of said merchandise, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Twentieth Century Business Builders, Inc., et al., Docket 2774, April 3, 1939]

SEC. 3.6 (s) *Advertising falsely or misleadingly—Promotional sales plans:* SEC. 3.6 (s 10) *Advertising falsely or misleadingly—Puzzle prize contests:* SEC. 3.7 *Aiding, assisting or abetting misrepresentation and deception:* SEC. 3.69 (b) (17) *Misrepresenting oneself and goods—Goods—Value:* SEC. 3.69 (c) (2a) *Misrepresenting oneself and goods—Prices—Exaggerated as regular and customary.* Representing, in connection with offer, etc., in commerce, of "count the dot" or "count the block" or other sales promotional plans, or causing or assisting the purchasers of said plan to represent, as the customary or regular prices or values of merchandise offered for sale in connection with the said sales promotional plan, prices or values which are in fact fictitious and in excess of the prices at which such merchandise is regularly and customarily offered for sale, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Twentieth Century Business Builders, Inc., et al., Docket 2774, April 3, 1939]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3rd day of April, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

IN THE MATTER OF TWENTIETH CENTURY BUSINESS BUILDERS, INC., A CORPORATION, AND EDWIN I. GORDON, AN INDIVIDUAL

ORDER TO CEASE AND DESIST

This proceeding having been heard [1] by the Federal Trade Commission upon the complaint of the Commission, the answer of respondents, testimony and other evidence taken before W. C. Reeves, Robert S. Hall and Arthur F. Thomas, examiners of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed herein (respondent not having requested oral argument), and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, Twentieth Century Business Builders, Inc., a corporation, its officers, representatives, agents and employees, and Edwin I. Gordon, his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale

[1] These regulations are supplementary to Section 62.54, Title 10, of the Code of Federal Regulations.

[1] 1 F. R. 1015.

and distribution in commerce as commerce is defined in the Federal Trade Commission Act of a sales promotional plan designated in the trade as a "count the dot" or "count the block" plan, or any other sales promotional plan, do forthwith cease and desist from:

1. Representing, or causing or assisting the purchasers of said plan to represent, that any sales promotional plan in which credit vouchers, checks, gifts, or any form of so-called prizes, are given to the entrants or contestants therein without regard to the relative correctness of the answers or solutions submitted by said entrants or contestants, is a contest.

2. Representing, or causing or assisting the purchasers of said plan to represent, that credit vouchers or checks, or any other form of prizes or gifts awarded in connection with such sales promotional plan, enable the recipients thereof to receive a "credit", "reduction" or other financial advantage in the purchase of merchandise when, in fact, said merchandise is offered for sale in the course of such sales promotional plan or so-called "contest" at a price in excess of the normal and customary price of said merchandise.

3. Representing, or causing or assisting the purchasers of said plan to represent, as "special" or "sale" prices of merchandise offered for sale in connection with said sales promotional plan, prices which are the same as or in excess of the regular and customary prices of said merchandise.

4. Representing, or causing or assisting the purchasers of said plan to represent, as the customary or regular prices or values of merchandise offered for sale in connection with the said sales promotional plan, prices or values which are in fact fictitious and in excess of the prices at which such merchandise is regularly and customarily offered for sale.

It is further ordered, That the respondents shall, within sixty days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 39-1234; Filed, April 12, 1939; 9:10 a. m.]

[Docket No. 3035]

IN THE MATTER OF THE GREATER CHAMBERS COMPANY

SEC. 3.6 (r) (7) *Advertising falsely or misleadingly—Prices—Usual as reduced:* SEC. 3.6 (gg) *Advertising falsely or misleadingly—Value.* Representing, in connection with offer, etc., in commerce, of caskets, vaults or other undertaking facilities, as the customary or regular prices or values for funerals, caskets, vaults or other and similar merchandise, prices and values which are in fact fictitious and greatly in excess of the prices at which said funerals, caskets, vaults or similar merchandise are regularly and customarily offered for sale and sold in the normal and usual course of business, or that the price at which funerals, caskets, vaults or other and similar merchandise are offered for sale is a saving or discount to the purchaser, when in fact said price is the usual and customary price at which the respondent sells said funerals, caskets, vaults or other and similar merchandise in the normal and usual course of business, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, The Greater Chambers Company, Docket 3035, April 3, 1939]

SEC. 3.6 (i) *Advertising falsely or misleadingly—Free goods or service:* SEC. 3.72 (e) *Offering deceptive inducements to purchase—Free goods.* Using, in connection with offer, etc., in commerce, of caskets, vaults or other undertaking facilities, the term "free", or any other term of similar import or meaning to designate or describe articles of merchandise or undertaking facilities regularly included in a combination offer with caskets or other similar articles of merchandise, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, The Greater Chambers Company, Docket 3035, April 3, 1939]

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.* Representing, in connection with offer, etc., in commerce, of caskets, vaults or other undertaking facilities, that the vaults or any other articles of merchandise of similar design and construction sold by the respondent are waterproof or air-tight, or will answer the purposes of a mausoleum when such is not the fact, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, The Greater Chambers Company, Docket 3035, April 3, 1939]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3rd day of April, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

IN THE MATTER OF WILLIAM W. CHAMBERS, AN INDIVIDUAL, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF THE GREATER CHAMBERS COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, testimony and other evidence taken before John J. Keenan, an examiner of the Commission theretofore duly designated by it in support of the allegations of said complaint and in opposition thereto, and the briefs filed herein by James M. Hammond, counsel for the Commission, and by Leonard A. Block, counsel for the respondent, and the Commission having made its findings as to the facts and conclusion, that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, William W. Chambers, individually and doing business under the name The Greater Chambers Company, or under any other trade name, his agents, employees and representatives, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of caskets, vaults, or other undertaking facilities in commerce as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Representing as the customary or regular prices or values for funerals, caskets, vaults or other and similar merchandise, prices and values which are in fact fictitious and greatly in excess of the prices at which said funerals, caskets, vaults or similar merchandise are regularly and customarily offered for sale and sold in the normal and usual course of business;

(2) Representing that the price at which funerals, caskets, vaults or other and similar merchandise are offered for sale is a saving or discount to the purchaser when in fact said price is the usual and customary price at which the respondent sells said funerals, caskets, vaults or similar merchandise in the normal and usual course of business;

(3) Using the term "free" or any other term of similar import or meaning to designate or describe articles of merchandise or undertaking facilities regularly included in a combination offer with caskets or other similar articles of merchandise;

(4) Representing that the vaults or any other articles of merchandise of similar design and construction sold by the respondent are waterproof or air-tight or will answer the purposes of a mausoleum when such is not the fact.

It is further ordered, That the charges set out in Paragraph Three of the complaint be, and the same hereby are, dismissed.

It is further ordered, That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 39-1235; Filed, April 12, 1939; 9:10 a. m.]

[1] 3 F. R. 1622 DI.

[Docket No. 3130]

IN THE MATTER OF IDAHO CANDY COMPANY

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., in connection with offer, etc., in commerce, of candy or any other merchandise, candy or any other merchandise so packed and assembled that sales thereof are to be, or may be, made by means of a lottery, etc., prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Idaho Candy Company, Docket 3130, April 3, 1939]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., in connection with offer, etc., in commerce, of candy or any other merchandise, dealers with assortments of candy or other merchandise, which assortments are to be, or may be, used without alteration or rearrangement of the contents thereof to conduct a lottery, etc., in the sale, etc., of said candy or other merchandise contained in said assortments to the public, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Idaho Candy Company, Docket 3130, April 3, 1939]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., in connection with offer, etc., in commerce, of candy or any other merchandise, dealers with asortments of candy or other merchandise, together with push cards, punchboards or other lottery devices which are to be, or may be, used in selling or distributing such candy or other merchandise to the public, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Idaho Candy Company, Docket 3130, April 3, 1939]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., in connection with offer, etc., in commerce, of candy or any other merchandise, dealers with a lottery device, either with assortments of candy or other merchandise, or separately, which lottery device is to be, or may be, used in selling or distributing such candy and other merchandise to the public, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Idaho Candy Company, Docket 3130, April 3, 1939]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., in connection with offer, etc., in commerce, of candy or any other merchandise, any merchandise by means of a game of chance, gift enterprise or lottery scheme, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Idaho Candy Company, Docket 3130, April 3, 1939]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3rd day of April, A. D. 1939.

Commissioners: Robert E. Freer, Chairman, Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

IN THE MATTER OF IDAHO CANDY COMPANY, A CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission, upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of the complaint to be true, and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Idaho Candy Company, its officers, representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale and distribution of candy or any other merchandise in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Selling and distributing candy or other merchandise so packed and assembled that sales of such candy and other merchandise are to be made or may be made by means of a lottery, gaming device or gift enterprise;

(2) Supplying to, or placing in the hands of dealers assortments of candy or other merchandise, which assortments are to be used or may be used without alteration or rearrangement of the contents of such assortments to conduct a lottery, gaming device or gift enterprise in the sale or distribution of said candy or other merchandise contained in said assortments to the public;

(3) Supplying to, or placing in the hands of dealers assortments of candy or other merchandise together with push cards, punchboards or other lottery devices, which push cards, punchboards or other lottery devices are to be used or may be used in selling or distributing such candy or other merchandise to the public;

(4) Supplying to, or placing in the hands of dealers a lottery device either with assortments of candy or other merchandise, or separately, which lottery device is to be used or may be used in selling or distributing such candy or other merchandise to the public;

(5) Selling or otherwise disposing of any merchandise by means of a game of chance, gift enterprise or lottery scheme.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 39-1236; Filed, April 12, 1939; 9:11 a. m.]

[1] 2 F. R. 1266.

[Docket No. 3649]

IN THE MATTER OF ARONSON-CAPLIN COMPANY, INC.

SEC. 3.6 (c) *Advertising falsely or misleadingly — Composition of goods:* SEC. 3.66 (a) *Misbranding or mislabeling—Composition.* Using, in connection with offer, etc., in commerce, of women's lingerie, including slips and nightgowns, term "pure dye", or any other term of similar import or meaning, to describe, etc., any fibers or fabrics or other products which are not composed wholly of unweighted silk, product of cocoon of silkworm, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Aronson-Caplin Company, Inc., Docket 3649, April 3, 1939]

SEC. 3.6 (c) *Advertising falsely or misleadingly—Composition of goods:* SEC. 3.66 (a) *Misbranding or mislabeling—Composition.* Using, etc., in connection with offer, etc., in commerce, of women's lingerie, including slips and nightgowns, words "satin" or "taffeta" or any other word or words of similar import or meaning, to describe, etc., any fabric or product which is not composed wholly of silk, product of cocoon of silkworm, prohibited, unless said descriptive word or words are used truthfully to designate type of weave, construction, or finish, in which case such word or words shall be qualified by using in immediate connection or conjunction therewith, in letters of at least equal size and conspicuousness, a word or words clearly and accurately naming or describing fibers or materials from which said fabric or product is made. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Aronson-Caplin Company, Inc., Docket 3649, April 3, 1939]

SEC. 3.6 (c) *Advertising falsely or misleadingly—Composition of goods:* SEC. 3.66 (a) *Misbranding or mislabeling—Composition.* Using, etc., in connection with offer, etc., in commerce, of women's lingerie, including slips and nightgowns, word "acetate" or any other name, as indicative of any process of manufacturing rayon, to describe or designate any fabrics, garments, or other products made

from rayon, unless word rayon is used in immediate conjunction with such word or name in type of equal size and conspicuousness, and subject to provision that such order shall not be construed as permitting advertising or offering for sale fabrics, garments, or other products composed in whole or in part of rayon, without disclosing rayon content of such products, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Aronson-Caplin Company, Inc., Docket 3649, April 3, 1939]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3rd day of April, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

IN THE MATTER OF ARONSON-CAPLIN COMPANY, INC. A CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint except that it denies that its fabric "Crepe La Rue" is made of any product other than silk, and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusions that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Aronson-Caplin Company, Inc., and its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of women's lingerie, including slips and nightgowns, in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Using the term "pure dye" or any other term of similar import or meaning to describe or designate any fibers or fabrics or other products which are not composed wholly of unweighted silk, the product of the cocoon of the silkworm;

(2) Using the words "satin" or "taffeta" or any other word or words of similar import or meaning to describe or designate any fabric or product which is not composed wholly of silk, the product of the cocoon of the silkworm, unless said descriptive word or words are used truthfully to designate the type of weave, construction, or finish, in which case such word or words shall be qualified by using in immediate connection or conjunction therewith in letters of at least equal size and conspicuousness, a word or words clearly and accurately naming or describing the fibers or materials from which said fabric or product is made;

(3) Using the word "acetate" or any other name as indicative of any process of manufacturing rayon, to describe or designate any fabrics, garments, or other products made from rayon unless the word rayon is used in immediate conjunction with such word or name in type of equal size and conspicuousness.

This order shall not be construed as permitting the advertising or offering for sale of fabrics, garments, or other products composed in whole or in part of rayon without disclosing the rayon content of such products.

It is further ordered, That the respondent shall, within sixty days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 39-1237; Filed, April 12, 1939; 9:11 a. m.]

[Docket No. 3690]

IN THE MATTER OF MUELLER COMPANY ET AL.

SEC. 3.27 (d) *Combining or conspiring—To enhance, maintain or unify prices:* SEC. 3.27 (h) *Combining or conspiring—To restrain and monopolize trade:* SEC. 3.63 (c) *Maintaining resale prices—Combination:* SEC. 3.24 (b) (1) *Coercing and intimidating—Customers—To maintain resale prices.* By agreement, combination, etc., between any two or more of respondent manufacturers, and in connection with offer, etc., in commerce, of corporation stops and curb stops, fittings for water works and gas systems, (1) fixing and maintaining (a) prices at which said products are sold, or (b) uniform discounts, terms and conditions covering sale of such products; or (2) submitting uniform and identical bids on said products; or (3) using coercive methods to compel jobbers to maintain prices for said products; prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Mueller Company et al., Docket 3690, April 5, 1939]

SEC. 3.27 (d) *Combining or conspiring—To enhance, maintain or unify prices:* SEC. 3.27 (h) *Combining or conspiring—To restrain and monopolize trade:* SEC. 3.63 (c) *Maintaining resale prices—Combination.* Selling, etc., in connection with offer, etc., in commerce, of corporation stops and curb stops, fittings for water works and gas systems, said products at prices, discounts or terms or conditions of sale which have been arrived at through or pursuant to any agreement, conspiracy or combination between and among any two or more of said respondents, or any of said respondents and any other member or members of the industry, prohibited. (Sec. 5, 38 Stat. 719 as amended by Sec. 3, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Mueller Company et al., Docket 3690, April 5, 1939]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 5th day of April, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

IN THE MATTER OF MUELLER COMPANY, A CORPORATION; A. Y. MCDONALD MANUFACTURING COMPANY; A CORPORATION; HAYS MANUFACTURING COMPANY, A CORPORATION; FARNAN BRASS WORKS COMPANY, A CORPORATION; AND KITSON COMPANY, A CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answers of respondents in which answers respondents admit all the material allegations of fact set forth in said complaint and state that they and each of them waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

Now, therefore, it is hereby ordered, That the respondents Mueller Company, a corporation, A. Y. McDonald Manufacturing Company, a corporation, Hays Manufacturing Company, a corporation, Farnan Brass Works Company, a corporation, and Kitson Company, a corporation, their successors, officers, agents and employees, in connection with the offering for sale, sale and distribution of fittings used in water works systems and gas systems, commonly known, and referred to, as corporation stops and curb stops, in interstate commerce and in the District of Columbia, do forthwith cease and desist from:

1. Doing and performing by agreement, combination or conspiracy between and among any two or more of said respondents, or any of said respondents and any other member or members of the industry, the following acts and things:

a. Fixing and maintaining the prices at which said products are sold;

b. Fixing and maintaining uniform discounts, terms and conditions covering the sale of said products;

c. Submitting uniform and identical bids on said products;

d. Using coercive methods to compel jobbers to maintain prices for said products.

2. Selling or offering for sale said products at prices, discounts or terms or conditions of sale which have been arrived at through or pursuant to any agreement, conspiracy or combination between and among any two or more of said respondents, or any of said respondents and any other member or members of the industry.

It is further ordered, That the respondents and each of them shall within sixty (60) days after service upon them of a copy of this order file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39-1238; Filed, April 12, 1939; 9:11 a. m.]

TITLE 23—HIGHWAYS

BUREAU OF PUBLIC ROADS

CHAPTER I, PART 22—RULES AND REGULATIONS FOR CARRYING OUT THE PROVISIONS OF SECTION 3 OF THE ACT OF JUNE 8, 1938 (52 STAT. 634), AND ACTS AMENDATORY THEREOF OR SUPPLEMENTARY THERETO, WHICH RELATE TO THE ELIMINATION OF HAZARDS TO LIFE AT RAILROAD GRADE CROSSINGS IN ACCORDANCE WITH THE PROVISIONS OF THE FEDERAL HIGHWAY ACT

Pursuant to the authority vested in the Secretary of Agriculture by the Federal Highway Act of November 9, 1921 (42 Stat. 212), as amended and supplemented, the following rules and regulations are hereby adopted and promulgated for administering the provisions of Section 3 of the Act approved June 8, 1938 (52 Stat. 634), and acts amendatory thereof or supplementary thereto, relating to the elimination of hazards to life at railroad grade crossings.

Done at the City of Washington this 11th day of April 1939, as witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

SEC. 22.1 *Definitions.* For the purposes of these rules and regulations, the following definitions shall control:

(a) "Act" shall mean section 3 of the Act of June 8, 1938 (52 Stat. 634), and acts amendatory thereof or supplementary thereto, which provide for the elimination of hazards to life at railroad grade crossings, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade-crossing structures, and the relocation of highways to eliminate grade crossings in accordance with the provisions of the Federal Highway Act, as amended and supplemented.

(b) "State" as used herein shall include the Territory of Hawaii, the Island of Puerto Rico and the District of Columbia.

(c) "Secretary" shall mean the Secretary of Agriculture of the United States.

(d) "Grade-crossing funds" shall mean the funds authorized by the act to be apportioned among the several States by the Secretary of Agriculture for the elimination of hazards to life at railroad grade crossings.

(e) "Municipality" shall mean a populous community, generally of defined area, usually organized pursuant to law into a body politic with corporate name and continuous succession and for the purpose and with the authority of subordinate local self-government.

(f) "Project" shall mean a definite undertaking for a purpose defined under the act.

(g) "Railroad" shall mean an individually owned and/or operated railroad in any State.

(h) Projects located on the Federal-aid highway system outside of municipalities shall be designated "Federal Aid Grade Crossing Project No. FAGH ____." Projects within municipalities, whether or not located on extensions of the Federal-aid highway system into or through such municipalities, shall be designated "Federal Aid Grade Crossing Project No. FAGM ____." Projects located outside of municipalities and not on the Federal-aid highway system shall be designated "Federal Aid Grade Crossing Project No. FAGS ____."*

SEC. 22.2 *Initiation of projects.* All projects under this act shall be initiated by the States and submitted in the same manner as other Federal-aid projects, and all such projects shall be subject to all of the provisions of the rules and regulations of the Secretary of Agriculture in effect for administering the Federal Highway Act, as amended, except such provisions as are inconsistent or in conflict with these rules and regulations.*

SEC. 22.3 *Application of funds to projects.* (a) The funds apportioned to any State under the act shall be applied to projects without limitation as to geographic location.

(b) The State may elect to establish a program of projects covering the full amounts of existing authorizations. Only that portion of the program can be approved by the Secretary for which the apportionments to the States shall have been made. Subject to the conditions hereinafter stated to secure a reasonably equitable distribution of benefits among the railroads in each State, the basic program of projects shall be apportioned to the railroads in such manner that the total cost of the project or projects on any railroad shall have approximately the same relation to the total apportionment to the State as the road mileage of such railroad bears to the total road mileage of all railroads in the State. For this purpose data obtained from the Interstate Commerce Commission will be furnished each State showing the road mileage, exclusive of trackage rights, owned or operated therein on December 31, 1935, by the individual class 1 railroads, together with the road mileage of railroads of all other classifications owned or operated in the State.

(c) At the discretion of the State, projects may be programmed within practical limits, on other than class 1 railroads to the extent of the indicated apportionment to such railroads, or the indicated apportionment to other than class 1 railroads may be distributed proportionately among the class 1 railroads, or used to increase the apportionment to one or more of the class 1 railroads, to accomplish the programming of desirable projects, without regard to the fact that some class 1 railroads may control other than class 1 railroad mileage. Exception may be made to the general principle of the apportionment of benefits to the railroads in any State where the crossings of any railroad on the basis of both railroad and highway traffic usage are of low priority in comparison with the crossings of other railroads.

(d) The mileage of high speed electric railway lines in any State may be considered in connection with the programming of projects, in which event the intention to program projects for such mileage shall be reported by a State highway department when submitting the first increment of its program.

(e) The basic program as thus determined shall be modified by the following conditions and the priority of the individual projects on the program adjusted in accord with (1) the total combined utilization by railroad and highway, vehicular and pedestrian, traffic; (2) the elimination of the greatest traffic hazards with respect to use in which the element of danger is accentuated by the character of the railroad and/or highway traffic; and (3) the possibility of immediate construction.*

SEC. 22.4 *Types of projects.* (a) The apportioned funds shall be available to pay the direct cost of the construction of projects of the following character, exclusive of any charges for rights-of-way and/or property damage:

(1) The separation of grades at crossings.

(2) The protection of grade crossings.

(3) The reconstruction of existing railroad grade-separation structures.

(4) The relocation of highways to eliminate grade crossings.

*Secs. 22.1 to 22.11, inclusive, issued under the authority contained in Sec. 18, 42 Stat. 216; 23 U. S. C. 19.

(5) The relocation of railroads to eliminate grade crossings.

(b) The separation of grades at crossings may be by underpass or by overpass and may include any necessary track elevation or track depression, and such additional work as may be required by changes in grade or alignment of the highway or by relocation of the highway or the railroad tracks. Grade-crossing funds may be used in combination with funds from other sources for the accomplishment of projects of greater magnitude than otherwise would be possible. The cost chargeable to grade-crossing funds of relocating and constructing the highway approaches to new or reconstructed grade-separation structures shall be limited to work actually necessary and performed within 1,500 feet on each side of the nearest track of the crossing measured along the center line of the highway improvement: *Provided, however,* That where conditions justify, the length of any one such approach may be increased if accompanied by a corresponding decrease in the length of the other approach. In all cases where the approaches to grade-separation structures are constructed on existing locations, the cost chargeable to grade-crossing funds of constructing such approaches shall be limited to such lengths on either side of the crossing structure as are necessary for proper approach grades and vertical curves to connect with the existing roadway.

(c) The protection of railroad grade crossings shall be accomplished by means of approved flashing-light signals, unless greater protection is desired than is afforded by flashing lights, in which event the installation of single gate arms in combination with flashing lights, the installation of crossing gates, or other similar devices, which are satisfactory to the State highway department and the affected railroad company, may be submitted for approval. Railroad grade-crossing protection devices of the flashing light type shall permit the use of:

(1) Recommended standards for flashing-light signals adopted by the Joint Committee on Grade Crossing Protection of the Association of American Railroads.

(2) Flashing-light signals conforming essentially to the standards recommended by the Joint Committee on Grade Crossing Protection of the Association of American Railroads which carry additional features, such as a rotating disc or other devices, which do not impair the operation or detract from the uniformity or utility of the signals.

(3) A wigwag signal of the magnetic type having standard signs and mounting height, a balanced outline reasonably in keeping with stationary lights with backgrounds and, when operating, an aspect essentially the same as flashing lights.

(d) Prior to the approval of any project for the protection of any railroad grade crossing, a definite agreement with respect to the maintenance of each such protection installation shall be entered into between the State highway department and the affected railroad company and approved by the Bureau of Public Roads. The plans and specifications for protection work shall be in sufficient detail to define or describe the exact kind and quality of material required, or in the case of an operating mechanism they shall cover fully the essential requirements of the operating parts so that there may be effective competition in securing materials or parts going into such installations.

(e) The reconstruction of existing railroad grade-separation structures shall include strengthening and widening or a relocation and rebuilding of the structure to provide alignment adequate for the safety of highway traffic.

(f) The relocation of any necessary length of highway to eliminate railroad grade crossings shall include the construction of new highway facilities and/or the reconstruction of an existing highway so that rerouted traffic will not encounter the crossings, but the total cost of any such highway relocation chargeable to grade-crossing funds shall not exceed:

(1) The estimated cost of providing grade-separation structures and approaches thereto for the avoided crossings; nor shall it exceed

(2) The estimated cost of providing on the relocation an improvement to modern standards of alignment and grade with surfacing of a type comparable to that existing on the portion of the route so relocated.

(g) The estimated cost of providing grade-separation structures and approaches thereto for avoided crossings shall be determined and agreed upon by the State highway department and representatives of the affected railroad company. A copy of such estimate properly approved and signed by representatives of these agencies shall be filed with each project of this character. The estimated cost of providing on the relocation an improvement to modern standards of alignment and grade with surfacing of a type comparable to that existing on the portion of the route so relocated shall be determined by the State highway department and approved by the Bureau of Public Roads.

(h) Before approval of a project for a highway relocation to eliminate railroad grade crossings at an estimated cost in excess of the amount chargeable to grade-crossing funds provision must be made to complete the relocation with other funds. If other Federal funds are to be used, the work shall be separated into corresponding sections. Grading as first-stage construction will be acceptable on highway relocations to eliminate railroad grade crossings provided the State highway department will enter into an agreement for future surfacing within a definite date.

(i) The relocation of railroads to eliminate railroad grade crossings may be undertaken whenever deemed by the affected interests the most economical and satisfactory procedure.

(j) Where a highway relocation project avoids grade crossings over the existing tracks of more than one railroad, the cost shall be chargeable to the railroads involved in the ratios which the number of existing tracks of each railroad bears to the total number of existing tracks at the avoided crossings. Where a single grade-separation structure eliminates grade crossings over the tracks of more than one railroad the cost shall be chargeable to the railroads involved on the basis of the number of tracks of the respective railroads that the grade-separation structure will accommodate. Nothing in the above methods of obtaining a division of cost of a project to more than one railroad shall prevent the affected railroads from agreeing upon any other basis of division and when such agreement exists the terms thereof shall apply.*

SEC. 22.5 *Selection of projects.* Insofar as practicable and feasible projects on each railroad to which funds are allocated shall be selected in accordance with the foregoing principles and by mutual agreements between the State and the affected railroad. Grade crossings within or adjacent to the larger municipalities, which are manually protected and which are used by a considerable volume of highway traffic, or which are frequently occupied by train movements, are desirable projects for elimination if funds are available for the settlement of right-of-way costs and/or property damage, or if provision has been made by the State or local authorities for such costs. Where legal authority exists for the physical closure of railroad grade crossings, and where, by the construction of a grade-separation structure with adequate approaches, the use of an existing grade crossing or grade crossings is rendered unnecessary for the convenience of the general public, approval of a project for the construction of a grade-separation structure shall be contingent upon prior provision for the physical closure of such grade crossing or crossings after completion of the structure and adequate approaches thereto. Any lateral connections necessary to accomplish the physical closure of such existing grade crossings may be included as a part of the project and paid for with grade-crossing funds. The extent to which railroad grade-crossing protection may be employed in lieu of grade-crossing eliminations will be determined by the State highway department subject to the condition, however, that hazardous crossings which cannot

be reached in the elimination program and which are not now protected by acceptable devices, may be required to be acceptably protected as a part of any program.*

SEC. 22.6 *Surveys, plans, specifications, etc.* Surveys and plans, specifications, and estimates for all projects in each State shall be prepared under the direction of the State highway department without reimbursement from Federal funds. The State highway department may utilize the services of the engineering organizations of the affected railroad companies, or the engineering organizations of consulting engineers for the preparation of plans for any project. Inasmuch as the Federal Highway Act requires each State to maintain at its own expense a State highway department having adequate powers and suitably equipped and organized to discharge the duties required by the legislation, no part of the cost of maintaining a central office organization of the State highway department or of any organization which may be utilized by the State for construction engineering and inspection shall be paid with Federal funds. Construction engineering and inspection charges reimbursable with Federal funds shall be limited to the salaries of individuals directly employed on a project and to other necessary costs incurred in connection with such engineering and inspection. The design requirements for highway bridges as contained in the Standard Specifications for Highway Bridges adopted by the American Association of State Highway Officials shall obtain with respect to structures carrying highway traffic over the railroads. The design requirements of the American Railway Engineering Association shall obtain with respect to structures carrying railroad traffic. Railroad clearances in general shall conform to those in effect on the individual railroads concerned. The design for grade-separation structures shall provide for such additional railroad trackage as reasonably may be anticipated.*

SEC. 22.7 *Methods of undertaking work.* (a) Wherever feasible and practicable the contract method shall be followed in performing work. Work necessary for the maintenance of railroad traffic including temporary support trestles, track adjustment, signal installation and adjustment, the rearrangement of telephone and telegraph lines on railroad right-of-way, and the adjustment of existing drainage facilities may be undertaken on a force account basis by the railroad or other utility involved with its own forces. On such work reimbursement will be made for proper costs incurred because of the project and the corresponding accounts must be kept in such way that they readily may be audited. Any material furnished by a railroad company or other utility for temporary work will be reimbursed at actual cost less fair salvage value when the material is released.

(b) Where a State highway department is organized and equipped to undertake projects on a day labor or force account basis, or where it desires to utilize the services of other efficient organizations, organized and equipped to undertake special kinds of work on a project on a day labor or force account basis, approval may be given to such methods of undertaking work on individual projects.*

SEC. 22.8 *Highway planning projects.* With the approval of the Secretary, not to exceed 1½ per centum of the amount apportioned to any State for eliminating the hazards to life at railroad grade crossings may be used for surveys, plans, engineering and economic investigations of projects for future construction in such State or for the general planning of a complete highway system and future programs of highway improvement for such State. Such proposed surveys, plans and engineering investigations shall be initiated by the State highway department in the same manner as are other projects by the submission of a project statement and if approved by the Secretary, the work shall be prosecuted under a project agreement.*

SEC. 22.9 *State regulatory bodies.* A State which has laws vesting control of grade-crossing matters in any other agency than the State highway department must necessarily effect cooperative arrangements between such agency and the State highway department for the purpose of carrying out the program of projects contemplated by the act. Controversies over the division of cost between a railroad and the State should not arise when Federal funds are available for such projects without being matched with State funds. Where agreement exists on grade-crossing projects between other affected parties with respect to established grades, clearances, etc., and where controversies are eliminated respecting division of costs approval of a public utilities commission or other similar governing body in a State should be largely a matter of form. Every effort, therefore, should be made to prevent delay to the program because of any necessity for clearing such matters through a State regulatory body.*

SEC. 22.10 *Contributions from railroads.* State laws pursuant to which contributions are imposed upon railroads for grade-crossing projects shall be held not to apply to projects under the act. If any contribution by a railroad company is indicated for right-of-way or construction cost of any project, the record of such project shall be supplemented by a statement from the railroad company that the indicated participation is wholly voluntary.*

SEC. 22.11 *Maintenance of grade-crossing projects.* Project agreements for grade-crossing projects shall provide for the maintenance of such projects by the State to the extent permitted by State law; otherwise the State shall submit, in the form prescribed by the Secretary, an agreement for such maintenance with the agency or agencies responsible therefor prior to the approval of the project.*

[F. R. Doc. 39-1246; Filed, April 12, 1939; 12:50 p. m.]

TITLE 47—TELECOMMUNICATION

FEDERAL COMMUNICATIONS COMMISSION

CHAPTER XXVIII—MISCELLANEOUS RULES AND REGULATIONS

[*Correction*]

The table of contents and Section 500.01 of Federal Register document No. 39-1201, filed April 10, 1939, at 11:08 a. m., and printed in the Tuesday, April 11, 1939, issue of the FEDERAL REGISTER on page 1558 should be corrected as follows:

TABLE OF CONTENTS

Part

* * * * *

500.51 Application for use of 2738 kc.

* * * * *

Allocation of Frequencies

SEC. 500.01 *Frequencies.* * * *

Coastal Harbor Telephone Stations

2182 kc calling and safety frequency.
2514 kc for transmitting message traffic to ship stations (working).
2572 kc marine broadcast frequency.
2738 kc for emergency communications only.

* * * * *

Notices

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 10th day of April, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

[File No. 21-303]

IN THE MATTER OF PROPOSED TRADE PRACTICE RULES FOR THE RIBBON INDUSTRY

NOTICE OF OPPORTUNITY TO PRESENT VIEWS, SUGGESTIONS OR OBJECTIONS

This matter now being before the Federal Trade Commission under its trade practice conference procedure, in pursuance of the Act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), or other applicable provisions of law administered by the Commission;

Opportunity is hereby extended by the Federal Trade Commission to any and

all persons, partnerships, corporations, associations, groups or other parties affected by or having an interest in the proposed trade practice rules for the Ribbon Industry to present to the Commission, orally or in writing, their views concerning such rules, including such pertinent information, suggestions or objections, if any, as they desire to submit. For this purpose they may, upon application to the Commission, obtain copies of the proposed rules. Written communications of such matters should be filed with the Commission not later than April 27, 1939. Opportunity for oral hearing and presentation will be afforded at 10 a. m., April 27, 1939, in room 332, Federal Trade Commission Building, Constitution Avenue at Sixth Street, Washington, D. C., to any such persons, partnerships, corporations, associations, groups or other parties as may desire to appear and be heard. After giving due consideration to all matters submitted concerning the proposed rules, the Commission will proceed to their final consideration.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39–1225; Filed, April 11, 1939; 2:06 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 11th day of April, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

[File No. 21–337]

IN THE MATTER OF PROPOSED TRADE PRACTICE RULES FOR THE PUTTY MANUFACTURING INDUSTRY

NOTICE OF OPPORTUNITY TO PRESENT VIEWS, SUGGESTIONS OR OBJECTIONS

This matter now being before the Federal Trade Commission under its trade practice conference procedure, in pursuance of the Act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), or other applicable provisions of law administered by the Commission;

Opportunity is hereby extended by the Federal Trade Commission to any and all persons, partnerships, corporations, associations, groups or other parties affected by or having an interest in the proposed trade practice rules for the Putty Manufacturing Industry to present to the Commission, orally or in writing, their views concerning such rules, including such pertinent information, suggestions or objections, if any, as they desire to submit. For this purpose they may, upon application to the Commission, obtain copies of the proposed rules. Written communications of such matters should be filed with the Commission not later than April 28, 1939. Opportunity for oral hearing and presentation will be afforded at 10 a. m., April 28, 1939, in room 332, Federal Trade Commission building, Constitution Avenue at Sixth Street, Washington, D. C., to any such persons, partnerships, corporations, associations, groups or other parties as may desire to appear and be heard. After giving due consideration to all matters submitted concerning the proposed rules, the Commission will proceed to their final consideration.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39–1233; Filed, April 12, 1939; 9:10 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of April, A. D. 1939.

Commissioners: Robert E. Freer, Chairman, Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

[Docket No. 3634]

IN THE MATTER OF RALPH KALNER, REA DRATH, FREDA ROSTEN, AND ALVIN B. WOLF, INDIVIDUALLY AND TRADING AS DELUXE PRODUCTS COMPANY AND DELCO NOVELTY COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress, (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, April 25, 1939, at two o'clock in the afternoon of that day (central standard time) in Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39–1226; Filed, April 11, 1939; 2:40 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of April, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

[Docket No. 3636]

IN THE MATTER OF SCHUTTER CANDY COMPANY, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, April 26, 1939, at ten o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39–1227; Filed, April 11, 1939; 2:40 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of April, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

[Docket No. 3659]

IN THE MATTER OF MODEL LINGERIE COMPANY A CORPORATION, AND GERTRUDE LEITH, INDIVIDUALLY AND AS OFFICER OF MODEL LINGERIE COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress, (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, April 25, 1939, at ten o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission:

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 39-1228; Filed, April 11, 1939; 2:40 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of April, A. D. 1939.

Commissioners: Robert E. Freer, chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

[Docket No. 3662]

IN THE MATTER OF BENJAMIN JAFFE, INDIVIDUALLY, AND TRADING AS NATIONAL PREMIUM COMPANY, AND KING SALES COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, April 25, 1939, at ten-thirty o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission:

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 39-1229; Filed, April 11, 1939; 2:40 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of April, A. D., 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

[Docket No. 3706]

IN THE MATTER OF GENERAL AMERICAN SALES CORPORATION, A CORPORATION AND DAVID C. BASKIN, ARNOLD SIMON, AND FAYE SIMON, INDIVIDUALS

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, April 24, 1939, at eleven o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 39-1230; Filed, April 11, 1939; 2:41 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of April, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

[Docket No. 3742]

IN THE MATTER OF PUBLIX PRINTING CORPORATION, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress, (38 Stat. 717; 15 U. S. C. A. Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, April 28, 1939, at ten o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 West Van Burean Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 39-1232; Filed, April 11, 1939; 2:41 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of April, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

[Docket No. 3711]

IN THE MATTER OF MITCHELL A. BAZELON, AND JACOB L. BAZELON, INDIVIDUALLY, AND TRADING AS EVANS NOVELTY COMPANY, AND PREMIUM SALES COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress, (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, April 24, 1939, at two o'clock in the afternoon of that day (central standard time), in Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39–1231; Filed, April 11, 1939; 2:41 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on 12th day of April, A. D. 1939.

[File No. 50–5]

IN THE MATTER OF AMERICAN GAS AND POWER COMPANY AND BIRMINGHAM GAS COMPANY

NOTICE OF AND ORDER FOR HEARING

American Gas and Power Company, a registered holding company under the Public Utility Holding Company Act of 1935, and Birmingham Gas Company, a subsidiary of American Gas and Power Company, having filed declarations and applications under Sections 7 and 12 (c) of said Act and Rules U–12D–1, U–12E–4 and U–12E–3 of the Commission with respect to a plan with certain amendments thereto for the recapitalization of Birmingham and the cancellation of certain inter-company debt; this Commission having duly entered an order on the 29th day of September 1938, after public hearing upon said applications, as amended, in which order it was expressly provided that this Commission retained jurisdiction to pass upon fees and expenses incurred and to be incurred in connection with the Plan of Recapitalization pursuant to Section 7 (d) (4); and said applicants having now submitted a statement of such fees and expenses and applied for approval thereof;

It is ordered, That a hearing on the matter of the reasonableness of said fees and expenses be held on April 28, 1939, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room in which such hearing will be held.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarants and applicants and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 24, 1939.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39–1244; Filed, April 12, 1939; 12:21 p. m.]